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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,732	06/01/2001	Marc Abrahams	450103-03027	3933

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EXAMINER

MAURO JR, THOMAS J

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/872,732	<b>Applicant(s)</b> ABRAHAMS ET AL.	
	<b>Examiner</b> Thomas J. Mauro Jr.	<b>Art Unit</b> 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2001.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 1-25 are pending and are presented for examination. A formal action on the merits of claims 1-25 follows.

#### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 9, 11-12, 19 and 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGuire et al. (U.S. 6,493,871) in view of Dukach et al. (U.S. 6,609,159).

Regarding claim 1, McGuire teaches a method of communication between a communication device and a website, comprising the steps of:

establishing a first connection between said communication device and said website via a first server hosting said website and displaying pages of said website to said communication device [McGuire -- Figure 2, Col. 7 lines 32-36 and Col. 8 lines 1-19 – User connects via client computer, i.e. communication device, to a website on a first server, i.e. update server ([www.microsoft.com](http://www.microsoft.com)), which displays pages for users to view];

transmitting information from said communication device to said first server [McGuire -  
- **Figure 3 and Col. 8 lines 1-19 – Client computer access website and then transmits a selection made from said page to request and update for a software product**];

receiving information at said communication device from said first server [McGuire --  
**Figure 3 and Col. 8 lines 20-26 – Server downloads a self-extracting executable file to the client computer**];

establishing a second connection between said communication device and a second server not hosting said website and transmitting information from said communication device to said second server [McGuire -- **Figures 2 and 7 and Col. 7 lines 42-56 – A second connection is established between client computer and a second server (not hosting the site) through which update files are downloaded for the software program in response to the client sending a download request to server**].

McGuire fails to explicitly teach a front-end server and a back end server.

Dukach, however, discloses a server system which includes a front end server and a back end server to increase the efficiency and to prevent the overloading of the front end server, which serves web pages, by allowing the client to connect directly to the back end server [Dukach -- **Figures 1, 10 and 17, Col. 1 lines 50-67 – Col. 2 lines 1-10, Col. 13 lines 25-55**].

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the framework of a front end and back end, as taught by Dukach into the update and download server system of McGuire such that the first server providing web pages would be the front end and the second server providing update files would be the back end, in order to prevent overloading of the front end by allowing the back-end to perform specific tasks,

i.e. software updating, file backup, etc. and to increase efficiency of the updating server system  
**[Dukach -- Col. 1 lines 50-67 – Col. 2 lines 1-10].**

Regarding claim 2, McGuire-Dukach teach the invention substantially as claimed, as  
aforementioned in claim 1 above, including wherein said first connection is terminated before  
said second connection is established **[McGuire -- Figures 2, 3 and 7, Col. 7 lines 47-56 and  
Col. 8 lines 1-19 – Connection to update setup server is only used to download setup  
executable and then is terminated. A second connection is then established to the download  
server for update data].**

Regarding claim 9, McGuire-Dukach teach the invention substantially as claimed, as  
aforementioned in claim 1 above, including receiving information at the client computer from  
said back-end server **[Dukach -- Col. 13 lines 25-39 and lines 48-55 – Connection with back-  
end server allows client's to send requests and receive responses from the back-end].**

Regarding claims 11, 12 and 19, these are method claims similar to the method claimed  
in claims 1, 2 and 9 above. They have similar limitations; therefore, claims 11, 12 and 19 are  
rejected under the same rationale.

Regarding claims 21-23, these are system claims corresponding to the method claimed in  
claim 1 above. They have similar limitations; therefore, claims 21-23 are rejected under the  
same rationale.

Regarding claims 24 and 25, McGuire teaches a computer program with instructions for communicating between a device and a website [**McGuire -- Col. 5 lines 62-67 – Col. 6 lines 1-10**]. The remaining limitations in claims 24 and 25 are similar to the limitations claimed in the method of claim 1. Therefore, claims 24 and 25 are rejected under the same rationale.

4. Claims 3-7 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGuire et al. (U.S. 6,493,871) and Dukach et al. (U.S. 6,609,159), as applied to claims 1 and 11 above respectively, in view of Chiles et al. (U.S. 6,167,567).

Regarding claim 3, McGuire-Dukach teach the invention substantially as claimed, as aforementioned in claim 1 above, but fail to explicitly teach sending identification information to said server.

Chiles, however, discloses an automatic software updating system in which a user transmits registration/configuration information such as a customer ID and password to a server [**Chiles Col. 3 lines 28-34, Col. 7 lines 2-10 and Col. 30 lines 33-67 – Col. 31 lines 1-21**].

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the transmitting of identification information, as taught by Chiles into the invention of McGuire-Dukach, in order to provide vital product/customer information which can

be used to provide more accurate, timely and crucial updates to customers and to further be used to recognize a customer upon requesting an update.

Regarding claims 4-5, McGuire-Dukach-Chiles teach the invention substantially as claimed, including wherein said information received at said communication device is registration information which comprises instruction information allowing said server to recognize said communication device [**Chiles -- Col. 3 lines 28-34, Col. 7 lines 2-10 and Col. 29 lines 24-53 – Identification information, i.e. version number, customerID, customer password, are sent as a sub-key to the client which are used to establish a connection and thus provide identification, i.e. registration information].**

Regarding claim 6, McGuire-Dukach-Chiles teach the invention substantially as claimed, including wherein said information received comprises operating system software [**Chiles -- Col. 7 lines 2-10 – Operating system module software, i.e. updates, are received].**

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the receiving of operating system software as an update in order to automatically and properly update substantially any client-resident software via a network server without user intervention.

Regarding claim 7, McGuire-Dukach-Chiles teach the invention substantially as claimed, including wherein said second connection is established via an Internet service provider associated with said client computer [**Chiles -- Col. 21 lines 29-46 – Dial-up connection is**

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**established through public switched telephone network (PSTN) which requires the use of an ISP to connect to the server through the Internet].**

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the accessing of a server via an ISP through a dial-up connection in order to provide not only a fault-tolerant and redundant system to ensure updates are received even if the LAN is down, but also to allow clients with different capabilities to receive updates as necessary.

Regarding claims 13-17 these are method claims similar to the method claimed in claims 3-7 above. They have similar limitations; therefore, claims 13-17 are rejected under the same rationale.

5. Claims 8, 10, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGuire et al. (U.S. 6,493,871) and Dukach et al. (U.S. 6,609,159), as applied to claims 1, 9, 11 and 19 above respectively, in view of Singhal (U.S. 6,615,244).

Regarding claim 8, McGuire-Dukach teach the invention substantially as claimed, as aforementioned in claim 1 above, but fail to explicitly teach wherein information transmitted from the client computer to the server comprises data to be backup up on said back end server. Singhal, however, discloses an Internet based data archive system which allows client computers to automatically transmit data to an archive server in order to back-up their computer data



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**[Singhal -- Col. 1 lines 33-39, Col. 2 lines 62-67, Col. 3 lines 23-32 and Col. 3 lines 52-67 – Col. 4 lines 1-9].**

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the archive server for backing up client data, as taught by Singhal as a function/service of the back-end server as taught by McGuire-Dukach, in order to provide another valuable service to clients, similar to software updating, thereby providing an automated and burden eliminated system for users to back up their computer data **[Singhal -- Col. 1 lines 13-26].**

Regarding claim 10, McGuire-Dukach-Singhal teach the invention substantially as claimed, as aforementioned in claim 9 above, including wherein said information received comprises information backed up on said back-end, i.e. archive, server **[Singhal -- Col. 3 lines 34-39 – Files can be transferred from archive server, i.e. back-end server, to client in order to restore files].**

Regarding claims 18 and 20, these are method claims similar to the method claimed in claims 8 and 10 above. They have similar limitations; therefore, claims 18 and 20 are rejected under the same rationale.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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- Cheng et al. (U.S. 6,151,643) discloses a system and method for automatic updating of software products through a registration and updating process involving a client and both a service provider and vendor system

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Mauro Jr. whose telephone number is 571-272-3917.

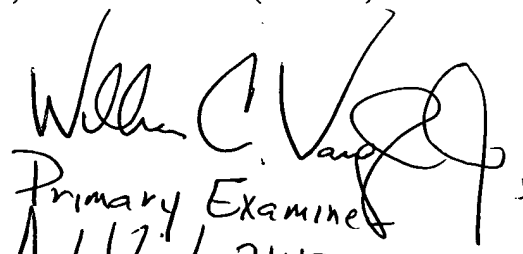
The examiner can normally be reached on M-F 8:00a.m. - 4:30p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



TJM  
October 29, 2004



Primary Examiner  
Art Unit 2143  
William C. Vaughn, Jr.